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| APPLICATION NO.                                                                       | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/569,493                                                                            | 02/27/2006  | Michael Berger       | 1454.1677           | 3471             |
| 21171                                                                                 | 7590        | 06/03/2009           |                     |                  |
| STAAS & HALSEY LLP<br>SUITE 700<br>1201 NEW YORK AVENUE, N.W.<br>WASHINGTON, DC 20005 |             |                      | EXAMINER            |                  |
|                                                                                       |             |                      | RIDEOUT, WILLIAM F  |                  |
|                                                                                       |             |                      | ART UNIT            | PAPER NUMBER     |
|                                                                                       |             |                      | 2617                |                  |
|                                                                                       |             |                      | MAIL DATE           | DELIVERY MODE    |
|                                                                                       |             |                      | 06/03/2009          | PAPER            |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/569,493

**Applicant(s)**

BERGER ET AL.

**Examiner**

Bill Rideout

**Art Unit**

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 26-52 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 26-52 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 February 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date 07/05/2006

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Inventor's Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Objections***

1. Claim 47 is objected to because of the following informalities: The claim recites "A device according to one of \_\_\_\_, ". It does not state what or which claim it refers to. Appropriate correction is required.
2. Claim 48 is objected to because of the following informalities: Claim 48 is dependent on canceled claim 18. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 26, 35, 36, 40, 43, 44, 46, and 52 are rejected under 35 U.S.C. 102(e) as being anticipated by Fraccaroli (US 6,549,768).

Regarding claims 26, 43, and 52, Fraccaroli discloses a method, device, and computer readable medium storing a computer program for grouping, equivalent to clustering, and a plurality of users in a mobile network (See column 8 lines 57-67), comprising:

assigning each user a specific profile containing data about said user (See column 5 lines 26-48) and at least one constraint (See column 9 lines 41-42);

performing a direct data interchange between at least two users as soon as they are in a specified communication zone (See column 10 lines 40-56 wherein interchange occurs after matching and location determination and column 7 lines 9-23 wherein zones are disclosed); and

clustering (grouping) users within the same communication zone, based on the data and constraints of their profiles (See column 2 lines 46-50).

Regarding claim 35, Fraccaroli further discloses the method according to claim 26 above wherein users with similar profiles are grouped in the same cluster (See column 5 lines 25-48).

Regarding claim 36, Fraccaroli further discloses the method according to claim 26 above wherein each new user defined his profile and the at least one constraint, and the constraint specifies the type of users to which the user wants to be clustered (See column 9 lines 40-50).

Regarding claim 40, Fraccaroli further discloses the method according to claim 26 above, wherein users are clustered according to a common characteristic, and each user in the cluster is informed of the common characteristic (See column 10 lines 51-61).

Regarding claim 44, Fraccaroli further discloses the device of claim 43 above, wherein it has an interface for wireless data transfer (See Fig. 1 and column 4 lines 1-11).

Regarding claim 46, Fraccaroli further discloses the device of claim 43 above, wherein it is a mobile telecommunications terminal (See Fig. 1 and column 3 lines 45-55).

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 51 rejected under 35 U.S.C. 102(b) as being anticipated by Chang (US 2002/0168938). Chang discloses a method for clustering a plurality of users in a mobile network, comprising;

specifying attributes of desirable users, the attributes being specified at an initiator mobile terminal in an ad hoc communication network (See paragraph [0010]);

searching for users having the attributes specified by the initiator user (See Fig. 2 and paragraph [0023]);

clustering together users having the attributes specified by the initiator users, to thereby form a user cluster (See paragraph [0010]); and

providing the users or the user cluster with information regarding other users within the same cluster (See paragraph [0010]).

#### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 27-30, 32-34, 37-39, 41, 42, 45, and 47-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fraccaroli in view of Chang(US 2002/0168938).

Regarding claim 27, Fraccaroli discloses a communication zone defined by forming at least one cluster (See column 2 lines 46-50 and column 7 lines 9-23) as applies to claim 26 above.

However, Fraccaroli fails to disclose an initiator user.

Chang discloses an ad-hoc mobile network set up by user profiles and initiated by a first user (See paragraph [0010]) and for a plurality of other users (See paragraph [0008]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made, to modify the method of Fraccaroli to form a cluster

having an initiator user and a plurality of other users, as disclosed by Chang, to increase the flexibility of the invention by providing cluster initiation options.

Regarding claim 28, Fraccaroli further discloses a matching group area, equivalent to a cluster, that spans multiple cells and therefore is equal to or larger than a communication range of an individual user (See column 5 lines 38-48) as applied to claim 27 above.

Regarding claim 29, Fraccaroli fails to disclose an initiator causing a communication topology as applied to claim 27 above.

Chang discloses an ad-hoc network, constituting a communication topology, formed as a result of an initiator user (See paragraph [0010]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made, to modify the method of Fraccaroli to form a communication topology, as disclosed by Chang, to increase communication efficiency of the invention.

Regarding claim 30, Fraccaroli fails to disclose a tree topology as applied to claim 29 above. Chang discloses an ad-hoc network, and therefore a tree topology (See paragraph [0010]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made, to modify the method of Fraccaroli to form a tree topology, as disclosed by Chang, to increase communication efficiency of the invention.

Regarding claim 32, Fraccaroli fails to disclose each user assigned to a single cluster.

Chang discloses users assigned to a single cluster (See paragraph [0010] wherein each user is assigned to one group).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made, to modify the method of Fraccaroli to have each use assigned to a single cluster, as disclosed by Chang, to increase efficiency of the invention.

Regarding claim 33, Fraccaroli further discloses users autonomously deciding to which cluster he belongs as applied to claim 32 above (See column 9 lines 9-12 wherein a user requests to join a matching group, equivalent to a cluster).

Regarding claim 34, Fraccaroli fails to disclose redefining clusters with new users as applied to claim 27 above.

Chang discloses a cluster that is redefined if a new user not hitherto belonging to the cluster is identified within the particular communication zone and the new user has a profile relevant to the user cluster (See paragraph [0024]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made, to modify the method of Fraccaroli to redefine clusters with the profile of a new user, as disclosed by Chang, to enhance operation of the invention by customizing the clusters according to new users.

Regarding claim 37, Fraccaroli fails to disclose exchanging profiles as applied to claim 26 above.

Chang discloses exchanging profiles for analysis between users within a cluster (See paragraph [0010]).



Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made, to modify the method of Fraccaroli to exchange profiles for analysis, as disclosed by Chang, to enhance operation of the invention by providing data to customize clusters.

Regarding claim 38, Fraccaroli fails to disclose exchanging data user-by-user as applied to claim 37 above.

Chang discloses exchanging data user-by-user (See paragraph [0010]). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made, to modify the method of Fraccaroli to exchange data user-by-user, as disclosed by Chang, to optimize operation of the invention by providing data to customize clusters.

Regarding claim 39, Fraccaroli fails to disclose exchanging profiles according to a communication topology as applied to claim 37 above.

Chang discloses exchanging data and user profiles according to a communications topology (See paragraph [0010] wherein an ad-hoc tree topology is used to exchange data and profiles).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made, to modify the method of Fraccaroli to exchange data using a communication topology, as disclosed by Chang, to optimize operation of the invention by providing data to customize clusters.

Regarding claim 41 and 45, Fraccaroli fails to disclose communication without a central switching entity.

Chang discloses users communicating without the interposition of a central switching entity (See paragraph [0010] wherein a first user communicates directly with a second user).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made, to modify the method and device of Fraccaroli to have users communicate without a central switching entity to reduce the resourced needed to implement the invention.

Regarding claim 42, Fraccaroli fails to disclose an initiator specifying attributes of desirable users as applied to claim 26 above.

Chang discloses an initiator user that specifies attributes of desirable users, wherein the initiator user is clustered with the desirable users, and the users in the cluster are identified to one another (See paragraph [0010]).

Regarding claim 47, Fraccaroli fails to disclose a computing unit as applied to claim 43 above.

Chang discloses a profile storage and matching unit, equivalent to a computing unit, for comparing its own profile or profile group with the profile or profile group of another user (See Fig. 1 and paragraph [0021]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made, to modify the device of Fraccaroli to have a profile storage and matching unit to increase efficient operation of the invention.

Regarding claims 48, 49 and 50, Fraccaroli fails to disclose a computer program as applied to claims 43 and 46 above.

Chang discloses a profile storage and matching unit which necessarily runs a computer program with program coding stored on a machine-readable media (See Fig. 1 and paragraph [0021]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made, to modify the device of Fraccaroli to run a stored computer program to provide a mechanism to realize operation of the invention.

8. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fraccaroli in view of Chang, and further in view of Twitchell, JR (US 2002/0119770). Fraccaroli in view of Chang fails to disclose passing a signal through intermediate users as applied to claim 27 above.

Twitchell discloses an ad-hoc network formed according to profiles (see paragraph [0023]) wherein signals are passed through secondary, equivalent to intermediate, users and a maximum is set for the number of secondaries (See paragraph [0032]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made, to modify the method of Fraccaroli in view of Chang, to connect through a maximum number of intermediate users, as disclosed by Twitchell, to increase the efficiency of the invention by providing additional communication paths.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to the applicant's disclosure.

**Pichna et al. US 2003/0235174** discloses ad hoc networking in a cellular network.

**Hutcheson et al. US 2002/0061743** discloses a method and system for mediating interactive services over a wireless communications network.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bill Rideout whose telephone number is 571-270-5762. The examiner can normally be reached on M-F 7:30 - 5:00 EST Alt Fri.

10. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Appiah can be reached on 571-272-7904. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/William Rideout/

/Charles N. Appiah/  
Supervisory Patent Examiner, Art Unit 2617